

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JIMMY QUINTIN GREEN,

Plaintiff,

Case No. 05-71093

v.

HONORABLE DENISE PAGE HOOD

MATTHEW E. ALLEN, et. al.,

Defendants.

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ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

I. BACKGROUND

This matter is before the Court on Plaintiff's Notice of Objection to Order Accepting Report and Recommendation, filed on March 16, 2006. The Court treats this as a Motion for Reconsideration as Plaintiff is objecting to the Order Accepting Magistrate Judge Scheer's Report and Recommendation. Pursuant to the prisoner mailbox rule, it appears that Plaintiff provided this motion for mailing to prison officials on February 26, 2006, therefore it is timely filed under the Local Rules of the Eastern District of Michigan.

II. MOTION FOR RECONSIDERATION

Proceeding to Plaintiff's arguments in his Motion for Reconsideration, the Court is guided by the standard of review set forth in the Local Rules of the United States District Court for the Eastern District of Michigan, which provide that:

Generally, and without restricting the court's discretion, the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication. The movant must not only *demonstrate a palpable defect* by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case.

E.D. Mich. LR 7.1(g)(3) (emphasis added). This Court has discretion to grant or deny Plaintiff's Motion for Reconsideration. *Sommer v. Davis*, 317 F. 3d 686, 691 (6th Cir. 2003). Plaintiff has failed to demonstrate a "palpable defect" by which this Court has been misled or otherwise demonstrated that he is entitled to a contrary outcome than that reached by this Court in its Order filed February 16, 2006.

Plaintiff argues in his motion that he filed a response to the Magistrate Judge's Report and Recommendation (Plf.'s Obj. to Ord. Acc. R & R, p. 1, Ins. 8-9). Plaintiff argues that the Court's Order Adopting the Magistrate Judge's Report and Recommendation was misleading in its statement that Plaintiff did not file an objection to the Report and Recommendation (Plf.'s Obj. to Ord. Acc. R & R, p. 2, Ins. 2-4). This statement in the Order was correct, Plaintiff did not file any objections to the Magistrate Judge's Report and Recommendation. Plaintiff only filed a Response or "Traverse" to Defendants' Motion for Summary Judgment, dated December 13, 2005 and filed (docketed) on January 9, 2006. Plaintiff makes much out of the fact that his Response was not docketed on the date Plaintiff submitted it to the Court, December 13, 2005. However, Magistrate Judge Scheer noted in his Report and Recommendation that Plaintiff had filed a Response on December 13, 2005, demonstrating that Plaintiff's Response was reviewed and considered by the Magistrate Judge and this Court. Plaintiff did not file any documents after the Magistrate Judge issued the Report and Recommendation and before this Court issued its

Order accepting the Report and Recommendation. Objections to a report and recommendation of a Magistrate Judge must be filed within ten days after the party is served with a copy, or further appeal from an acceptance of a report and recommendation is waived.

In his Notice of Objection to Order Accepting Report and Recommendation, Plaintiff has raised no issues not previously ruled upon by this Court, either expressly or by reasonable implication. Nor has Plaintiff shown a palpable defect that if corrected would result in a different disposition of the case.

III. CONCLUSION

Accordingly,

IT IS ORDERED that Plaintiff's Notice of Objection to Order Accepting Report and Recommendation, considered by this Court as a Motion for Reconsideration [**Docket No. 38, filed March 16, 2006**] is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion Requesting Admissions is [**Docket No. 36, filed March, 3 2006**] is MOOT.

IT IS FURTHER ORDERED that Plaintiff's Motion re: Admissions of Certain ATF agents [**Docket No. 37, filed March 3, 2006**] is MOOT.

/s/ Denise Page Hood
DENISE PAGE HOOD
United States District Judge

DATED: August 25, 2006

I hereby certify that a copy of the foregoing document was served upon counsel of record

on August 25, 2006, by electronic and/or ordinary mail.

S/William F. Lewis

Case Manager